

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

[illegible]

## MOTION FOR SUBSTITUTION OF PARTY

Plaintiffs, Lucia Flores, Daniel Moreno, Abel Moreno, Shameka Donnell, Vontrael Donnell, Tiffany Donnell, Travon Donnell, Robert McDaniel, Yolanda Simpson, Gloria Torres and Rosa Hernandez (“Named Plaintiffs”), on behalf of themselves and those similarly situated (“Collective Action Plaintiffs”), by and through undersigned counsel, hereby file this Motion for Substitution of Party.

1. Named Plaintiffs initiate the instant action to redress violations by Defendants of the Fair Labor Standards Act (“FLSA”) and the common-law rights of Named Plaintiffs and the putative class. Defendants intentionally failed to compensate Named Plaintiffs and Collective

Action Plaintiffs for wages earned while in the employ of Defendants. As a result of Defendants' unlawful actions, Named Plaintiffs and Collective Action Plaintiffs have been harmed.

2. Defendant Roman Gaona was an employee of Defendant ACT Event Services and assisted in ACT Event Services intentional failure to compensate Named Plaintiffs and Collective Action Plaintiffs.

3. On December 6, 2014, Counsel for Mr. Gaona filed a Notice of Death of Defendant. (Doc. No. 45).

4. On February 11, 2015, the Court entered a Memorandum Opinion and Order on Defendant's Motion to Dismiss for Lack of Jurisdiction and, in the alternative, Motions for Partial Summary Judgment. (Doc No. 54) In footnote 2 of the Memorandum Opinion and Order the Court stated that "the plaintiffs indicated their intent to "pursue the action against the Representative of his Estate." Plaintiffs' Response to Final Touch at 2 n.1. Therefore, pursuant to Federal Rules of directs the plaintiffs to substitute the representative of Gaona's estate for the deceased Gaona as a defendant in this action." (Doc. No. 54)

5. FRCP 25(a)(1) states that "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A Motion for Substitution may be made by any party or by the decedent's successor or representative."

6. Plaintiffs are unclear if the Court interpreted its original notice of intent as a Motion to Substitute and granted it or the Court is requesting that the Plaintiffs file a Motion for Substitution in accordance with FRCP 25(a)(1).

7. In an abundance of caution, Plaintiff is filing the Motion for Substitution with the Third Amended Complaint attached and requesting that the Court grant this Motion for Substitution and deem the Third Amended Complaint filed. (Pltf. App. 000001-18)

8. Plaintiffs' counsel has requested from Counsel for Roman Gaona the name and location of the Representative of the Estate of Roman Gaona and has not been provided a name. Plaintiff is listing the Representative of the Estate of Roman Gaona in its Third Amended Complaint and will serve the representative upon becoming aware of his or her name.

**PRAYER FOR RELIEF**

**WHEREFORE**, Named Plaintiffs and Collective Action Plaintiffs pray that this Court grants its Motion for Substitution of Party and deems the Third Amended Complaint as filed and any other relief the Court deems necessary to grant.

Respectfully submitted,

BY: /s/ Lauren Tow

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of March, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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